

FILED

APR 04 2016

THOMAS G. BRUTON
CLERK, U.S. DISTRICT COURT

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
Eastern Division

FRANCISCO CHAVEZ,

Plaintiff,

v.

ILLINOIS AUTO ELECTRIC CO.

d/b/a ILLINOIS AUTO CENTRAL,

Defendants.

CIVIL ACTION

Case No. _____

1:16-cv-03979

Judge Joan H. Lefkow

Magistrate Judge Sidney I. Schenkier

COMPLAINT OF EMPLOYMENT DISCRIMINATION

1. This is an action for employment discrimination.
2. The plaintiff is FRANCISCO CHAVEZ of the county of Will in the state of Illinois.
3. The defendant is ILLINOIS AUTO ELECTRIC CO. d/b/a ILLINOIS AUTO CENTRAL, whose street address is 700 Enterprise Dr., Aurora, DuPage, IL 60504 (630) 862-3300.
4. The plaintiff sought employment or was employed by the defendant at 4750 S. Central Ave., Chicago, IL 60638.
5. The plaintiff [*check one box*]
 - (a) ☐ was denied employment by the defendant.
 - (b) ☐ was hired and is still employed by the defendant.
 - (c) ☒ was employed but is no longer employed by the defendant.
6. The defendant discriminated against the plaintiff on or about, or beginning on or about February 6, 2015.

7.1 (Choose paragraph 7.1 or 7.2 do not complete both.)

(a) the defendant is not a federal governmental agency, and the plaintiff [check one box] ☐has not ☒has filed a charge or charges against the defendant asserting the acts of discrimination indicated in this complaint with any of the following government agencies:

(i) ☒ the United States Equal Employment Opportunity Commission, on or about November 9, 2015.

(ii) ☐the Illinois Department of Human Rights, on or about (month) _____(day)_____(year)_____.

(b)If charges *were* filed with an agency indicated above, a copy of the charge is attached. ☒YES ☐NO, but plaintiff will file a copy of the charge within 14 days.

It is the policy of both the Equal Employment Opportunity Commission and the Illinois Department of Human Rights to cross-file with the other agency all charges received. The plaintiff has no reason to believe that this policy was not followed in this case.

7.2 The defendant is a federal governmental agency, and

(a) the plaintiff previously filed a Complaint of Employment Discrimination with the defendant asserting the acts of discrimination indicated in this court complaint.

☐Yes (month)_____(day)_____(year)_____

☐No, did not file Complaint of Employment Discrimination

(b) The plaintiff received a Final Agency Decision on (month)_____(day)_____(year)_____.

(c) Attached is a copy of the

(i) Complaint of Employment Discrimination,

☐ YES ☐ NO, but a copy will be filed within 14 days.

(ii) Final Agency Decision

☐ YES ☐ NO, but a copy will be filed within 14 days.

8. *(Complete paragraph 8 only if defendant is not a federal governmental agency.)*

(a) ☐ The United States Equal Employee Opportunity Commission has not issued a *Notice to Right to Sue*.

(b) ☒ the United States Equal Employment Opportunity commission has issued a *Notice of Right to Sue*, which was received by the plaintiff on December 7, 2015. **SEE EXHIBIT A.**

9. The defendant discriminated against the plaintiff because of the plaintiff's [check only those that apply]:

(a) ☒ Age (Age Discrimination Employment Act).

(b) ☐ Color (Title VII of the Civil Rights Act of 1964 and 42 U.S.C §1981).

(c) ☐ Disability (Americans with Disabilities Act or Rehabilitation Act)

(d) ☒ National Origin (Title VII of the Civil Rights Act of 1964 and 42 U.S.C §1981).

(e) ☐ Race (Title VII of the Civil Rights Act of 1964 and 42 U.S.C §1981).

(f) ☐ Religion (Title VII of the Civil Rights Act of 1964)

(g) ☐ Sex (Title VII of the Civil Rights Act of 1964)

10. if the defendant is a state, county, municipal (city, town or village) or other local governmental agency, plaintiff further alleges discrimination on the basis of race, color, or national origin (42 U.S.C. §1983).
11. Jurisdiction over the statutory violation alleged is conferred as follows: for Title VII claims by 28 U.S.C. §1331, 28 U.S.C. §1343(a)(3), and 42 U.S.C. §2000e-5(f)(3); for 42 U.S.C. §1981 and §1983 by 42 U.S.C. §1988; for the A.D.E.A. by 42 U.S.C. §12117; for the Rehabilitation Act, 29 U.S.C. §791
12. The defendant [*check only those that apply*]
- (a) ☐ failed to hire the plaintiff.
 - (b) ☒ terminated the plaintiff's employment.
 - (c) ☐ failed to promote the plaintiff.
 - (d) ☐ failed to reasonably accommodate the plaintiff's religion.
 - (e) ☐ failed to reasonably accommodate the plaintiff's disabilities.
 - (f) ☒ failed to stop harassment.
 - (g) ☒ retaliated against the plaintiff because the plaintiff did something to assert rights protected by the laws identified in paragraphs 9 and 10 above;
 - (h) ☐ other(specify): _____

13. The facts supporting the plaintiff's claim of discrimination are as follows:

PLEASE SEE ATTACHED EXHIBIT B.

14. [AGE DISCRIMINATION ONLY] Defendant knowingly, intentionally, and willfully discriminated against the plaintiff.

15. The plaintiff demands that be case be tried by a jury. ☐YES ☒NO

16. THEREFORE, the plaintiff asks that the court grant the following relief to the plaintiff
[check only those that apply]

(a)☐ Direct the defendant to hire the plaintiff.

(b)☐ Direct the defendant to re-employ the plaintiff.

(c)☐ Direct the defendant to promote the plaintiff.

(d)☐ Direct the defendant to reasonably accommodate the plaintiff's religion.

(e)☐ Direct the defendant to reasonably accommodate the plaintiff's disabilities.

(f)☒ Direct the defendant to (specify): Compensate for wage, vacation, overtime union benefits and insurance loss

(g)☒ If available, grant the plaintiff appropriate injunctive relief, lost wages, liquidated/double damages, front pay, compensatory damages, punitive damages, prejudgment interest, post-judgment interest, and costs, including reasonable attorney fees and expert witness fees.

(h)☒ Grant such other relief as the Court may find appropriate.

(Plaintiff's signature)



(Plaintiff's name)

Francisco Chavez

(Plaintiff's street address)

688 Tallgrass Drive

(City) Bolingbrook (State) IL (ZIP) 60440

(Plaintiff's telephone number) (630) 739-7953

EEOC Form 161 (11/09)

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DISMISSAL AND NOTICE OF RIGHTS

To: **Francisco Chavez**
688 Tallgrass Drive
Bolingbrook, IL 60440

From: **Chicago District Office**
500 West Madison St
Suite 2000
Chicago, IL 60661



On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

440-2016-00302

Sergio Maldonado,
Investigator Support Assistant

(312) 869-8129**THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:**

The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.



Your allegations did not involve a disability as defined by the Americans With Disabilities Act.



The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.



Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge



The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.



The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.



Other (briefly state)

- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit **must be filed WITHIN 90 DAYS of your receipt of this notice**; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission

Julianne Bowman
Julianne Bowman,
District Director

12/7/15
 (Date Mailed)

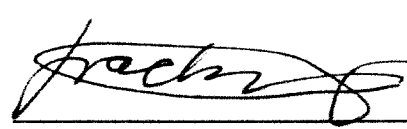
Enclosures(s)

cc: **ILLINOIS AUTO ELECTRIC CO.**
c/o H. Bruce Sirotek
Chief Executive Officer
700 Enterprise Street
Aurora, IL 60504-8148

Exhibit A

EEOC Form 5 (11/09)

CHARGE OF DISCRIMINATION This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.		Charge Presented To: Agency(ies) Charge No(s): <div style="display: flex; justify-content: space-between;"> <div> <input type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC </div> <div style="text-align: right;"> 440-2016-00302 </div> </div>	
Illinois Department Of Human Rights and EEOC <i>State or local Agency, if any</i>			
Name (indicate Mr., Ms., Mrs.) Francisco Chavez		Home Phone (Incl. Area Code) (630) 800-6937	Date of Birth 04-02-1957
Street Address City, State and ZIP Code 688 Tallgrass Drive, Bolingbrook, IL 60440			
Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)			
Name ILLINOIS AUTO ELECTRIC CO.		No. Employees, Members 15 - 100	Phone No. (Include Area Code) (708) 563-2700
Street Address City, State and ZIP Code 4750 South Central Avenue, Chicago, IL 60638			
Name		No. Employees, Members	Phone No. (Include Area Code)
Street Address City, State and ZIP Code			
DISCRIMINATION BASED ON (Check appropriate box(es)) <div style="display: flex; flex-wrap: wrap; justify-content: space-between;"> <div><input type="checkbox"/> RACE</div> <div><input type="checkbox"/> COLOR</div> <div><input type="checkbox"/> SEX</div> <div><input type="checkbox"/> RELIGION</div> <div><input checked="" type="checkbox"/> NATIONAL ORIGIN</div> <div><input checked="" type="checkbox"/> RETALIATION</div> <div><input checked="" type="checkbox"/> AGE</div> <div><input type="checkbox"/> DISABILITY</div> <div><input type="checkbox"/> GENETIC INFORMATION</div> <div><input type="checkbox"/> OTHER (Specify)</div> </div>		DATE(S) DISCRIMINATION TOOK PLACE Earliest Latest <div style="text-align: right;">10-09-2015</div> <div style="margin-top: 10px;"><input type="checkbox"/> CONTINUING ACTION</div>	
THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)): <p>I began my employment with Respondent in or around August, 2000. My most recent position was Refrigeration Technician. During my employment, I was subjected to discipline. I complained to Respondent to no avail. Subsequently, I was subjected to further discipline. I was also suspended and discharged.</p> <p>I believe I have been discriminated against because of my national origin, Hispanic, and in retaliation for engaging in protected activity, in violation of Title VII of the Civil Rights Act of 1964, as amended.</p> <p>I also believe I have I have been discriminated against because of my age, 58 (D.O.B. April 2, 1957), and in retaliation for engaging in protected activity, in violation of the Age Discrimination in Employment Act of 1967, as amended.</p>			

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures. I declare under penalty of perjury that the above is true and correct.	NOTARY - When necessary for State and Local Agency Requirements I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief. SIGNATURE OF COMPLAINANT SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (month, day, year)
<div style="display: flex; justify-content: space-between;"> <div> Nov 09, 2015 Date </div> <div>  Charging Party Signature </div> </div>	

February 2, 2016

Re: Francisco Chavez workplace treatment at Illinois Auto Central

The workplace should be a place where you feel that you are treated with respect and fairness. However, while employed at Illinois Auto Central there were many situations that occurred that allowed me to realize that I was being treated unfairly. I never quite understood why I was being singled out, but I always tried to make sure that I was doing my job to the best of my ability. It was important for me to document some of the instances where I felt that I had been treated differently at work and most notably felt that I had been discriminated.

The first situation that I documented, occurred during the month of May 2015, my co-worker Mr. Dave Morris was sent to work on a NFI trailer in Joliet, IL, while at the work location, he forgot to take the serial number of a unit, and was not able to repair the unit because he didn't have the parts for it. The same day, they sent me out to the location in Joliet to repair the unit that my co-worker was not able to repair, however, when I got to the customer location the trailer was not there anymore. Although, I did have all the parts for the unit there was no serial number that I could use for the work order, because my co-worker had failed to bring it with him prior to my arrival. Although, my co-worker (Mr. Morris) arrived at the location first and had failed to take the serial number with him originally, he was not written up for not having the serial number that was needed. However in this situation, I was written up for the latter.

In addition, during the month of June 2015, another co-worker, Mr. Lester did some refrigeration repairs on an Idealease, Inc. truck, however two days later the truck was brought back to the shop. One of the reasons it was brought back was because it did not have Freon, therefore I worked on the truck and also repaired some solder joints that were not properly sealed. Mr. Lester was not written up for not properly repairing the solder joints. During the same month of June 2015, Mr. Lester did a comprehensive PM service on a St. Francis Pat Crematory trailer, the trailer came back two days later with a broken drive belt, the unit had a bad crank shaft pulley, but he was also not written up for that. In June 2015, my co-worker Mr. Jeremy was sent out to work on a customer trailer, he did some repairs the customer called back half an hour after he left the location, the unit had a thrown out the alternator belt and Mr. Jeremy did not have any repercussions for his actions.

One very important thing to note is that throughout the years while working at Illinois Auto Central, Gladys the service writer always tried to make contacts with different technicians while they were on the road. Her position was to make sure she was in touch with the technicians to ask questions about certain units while the technicians were out. Many times, Gladys couldn't get ahold of certain technicians, because they wouldn't answer their phones. In this instance, only some people (like myself) were written up for failing to answer the phone.

Exhibit B

It really became evident to me that I was really being treated unjustly and unfairly different when at times customers would come back with problems that they were still having on their units that we had worked on. Although there were many technicians that had worked on the different units, it was clear, that most technicians were immune to getting written up for the mistakes that they had made on the units. I was written up, while others who had also had customers come back were not. I discussed this with Mr. Henry and Mr. Sterns (Managers) and they agreed that all technicians made mistakes or missed things on the unit.